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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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8 BRYAN DE SIMAS, et al.,

No. C 06-6614 SI

9 Plaintiffs,

**ORDER EXTENDING STAY**

10 v.

11 BIG LOTS STORES, INC., et al.,

12 Defendants.  
13 \_\_\_\_\_/

14 This action is currently stayed, pursuant to the *Colorado River* doctrine, pending resolution of  
15 a state court action, *Espinosa*. On June 26, 2007, the Court directed the parties to submit briefs  
16 addressing whether the Court should dismiss this case without prejudice to re-filing should plaintiffs  
17 ultimately succeed in their appeal of *Espinosa*. The Court has received and reviewed the parties'  
18 responses and now rules as follows.

19 In light of the uncertainty as to whether all of plaintiffs' claims would be tolled by the *Espinosa*  
20 action, and the Ninth Circuit's guidance in *Attwood v. Mendocino Coast District Hospital*, 886 F.2d 241  
21 (9th Cir. 1989), the Court hereby extends the stay. If defendants stipulate to the tolling of all of  
22 plaintiffs' claims pending resolution of *Espinosa*, the Court will reconsider this ruling and dismiss the  
23 case without prejudice.

24 **IT IS SO ORDERED.**

25 Dated: August 7, 2007



26 SUSAN ILLSTON  
27 United States District Judge  
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